

ENTERED

October 02, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

DYLAN LEE EASTER, §
§
Plaintiff, §
VS. § CIVIL ACTION NO. 3:15-CV-287
§
ARTURO ESPINOSA, *et al.*, §
§
Defendants. §

ORDER

Plaintiff filed this lawsuit in state court on September 13, 2015, and Defendants removed the suit to this Court on October 13, 2015. Dkt. 1. Plaintiff contended that his constitutional rights had been violated during a traffic stop and subsequent arrest in January 2014.

On May 18, 2017, this Court dismissed most of the claims, leaving only Plaintiff's claim against Officer Espinosa, in his individual capacity, for violating Section 1983 by unlawfully stopping and arresting Easter without probable cause. Dkt. 23. The Court then held a scheduling conference to set deadlines for the trial of that remaining claim. Dkt. 27. The discovery cut-off in this case was September 30, 2017, and dispositive motions are due on October 20, 2017. Docket call is set for January 8, 2018.

Defendants have now filed a letter requesting a pre-motion conference to address discovery problems. Dkt. 28. Specifically, Defendants' counsel allege that they are having a significant degree of difficulty in securing discovery from Plaintiff, and that he failed to appear for a properly noticed deposition. In keeping with this Court's

Procedures, Defendants have sought a pre-motion conference to discuss filing a motion under Federal Rule of Civil Procedure 37 and seeking an order from this Court that will compel Plaintiff to appear for deposition, respond to written discovery requests, and to comply with his discovery obligations.

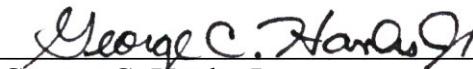
After considering the Defendants' request, the Court finds that a pre-motion conference is not warranted at this time and Dkt. 28 is denied without prejudice. Instead, Defendants may file the proposed motion to compel under Rule 37 and applicable case law. *See, e.g., Oprex Surgery (Baytown), L.P. v. Sonic Auto. Employee Welfare Benefit Plan*, 16-20734, 2017 WL 3442373 (5th Cir. Aug. 10, 2017).

Such motion shall be filed on or before **Friday, October 6, 2017**. Plaintiff's response to that motion is due on or before **Tuesday, October 10, 2017**.

All counsel should be prepared for a hearing, to be held on short notice, after the motion is filed.

Plaintiff is cautioned that a failure to file a response to the Defendants' motion, or to appear at a hearing or conference with the Court, may be viewed as a failure to prosecute or a statement that the relief sought is not opposed.

SIGNED at Galveston, Texas, this 2nd day of October, 2017.



George C. Hanks Jr.
United States District Judge